

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to outdated language
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 34, “Alternative Diagnostic Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 218.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.14.

Purpose and Summary

The Department is proposing to revise outdated language used when a person is being assessed for admission to a state mental health institution on a voluntary basis. The outdated language would be replaced with more current, person-centered language to be consistent with best practices for persons with mental illness.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 18, 2022. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule ~~441—34.1(225C)~~, definitions of “Alternative diagnostic facility” and “Mental health professional,” as follows:

“Alternative diagnostic facility” means any organization or individual designated by the county board of supervisors to implement the preliminary diagnostic evaluation policy (Iowa Code section 225C.14) when a county is not served by a community mental health center capable of the diagnostic evaluations. An alternative diagnostic facility may be the outpatient service of a state mental health institute or any organization or individual able to furnish the requisite skills and to meet the standards set forth in this chapter by the mental health and ~~mental-retardation~~ disability services commission.

“Mental health professional” means ~~a person who~~ an individual who has either of the following qualifications:

~~1. Holds at least a master's degree in a mental health field, including, but not limited to, psychology, counseling and guidance, nursing and social work; or is a doctor of medicine (M.D.) or doctor of osteopathic medicine and surgery (D.O.); and~~

~~2. Holds a current Iowa license when required by Iowa licensure law; and~~

~~3. Has at least two years of postdegree experience, supervised by a mental health professional, in assessing mental health problems and needs of individuals and in providing appropriate mental health services for those individuals.~~

1. The individual meets all of the following requirements:

• Holds at least a master's degree in a mental health field, including, but not limited to, psychology, counseling, guidance, nursing, or social work; or is an advanced registered nurse practitioner, a physician assistant, or a physician and surgeon; or is an osteopathic physician and surgeon.

• Holds a current Iowa license if practicing in a field covered by an Iowa licensure law.

• Has at least two years of postdegree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

2. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law and is a psychiatrist, an advanced registered nurse practitioner who holds national certification in psychiatric mental health care and is licensed by the board of nursing, a physician assistant practicing under the supervision of a psychiatrist, or an individual who holds a doctorate degree in psychology and is licensed by the board of psychology.

ITEM 2. Amend subrule 34.2(2) as follows:

34.2(2) Assist the court and, insofar as possible, provide or designate a physician or mental health professional to perform a prehearing examination of a respondent required under Iowa Code section 229.8, subsection 3, ~~paragraph “b.”~~ 229.8(3) “b.”

ITEM 3. Amend subrule 34.3(7) as follows:

34.3(7) The facility shall comply with procedures for uniform reporting of statistical data as established by the division of mental health, ~~mental-retardation, and developmental disabilities and~~ disability services.

ITEM 4. Amend subrule 34.3(8) as follows:

34.3(8) The facility shall comply with the standards for the maintenance and operation of public and private facilities offering services to ~~mentally ill~~ persons with mental illness as adopted by the mental health and ~~mental retardation~~ disability services commission.